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IN THE SUPREME COURT OF THE UNITED STATES

WASHINGTON, D. C.

1033

REPLY BRIEF TO BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

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IN THE SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C.

CHARLES E. BURNS, JR., et al
Petitioners

vs.

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA
Defendants

RECORD NO. 1063

REPLY BRIEF TO BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

1. JURISDICTION—Petitioners were denied due process of law under the 14th Amendment to the Constitution of the United States in that the state courts below sustained Defendants' Demurrer and removed the cause from the docket on which it had been placed for trial on its merits before the trial was held. At a trial Petitioners could have subpoenaed records and witnesses under oath to prove that the assessment procedures being used in Fairfax County to tax real estate are depriving Petitioners of the equal protection of the laws:

(a) Contrary to Respondent's allegation, Petitioners complied with U. S. Supreme Court Rule 21 by filing with their Petition for Certiorari a certified copy of the entire record of the Fairfax County Circuit Court in the case on which both the Circuit Court and the Virginia Supreme Court of Appeals based their judgments.

(b) Contrary to Respondent's allegation, the state courts were given the first opportunity to consider the constitutional questions raised under Sections 1, 5, 6, 11, 39, 58, 168, 169, and 188 of the Constitution of Virginia, and the Fourteenth Amendment to the United States Constitution, including the statutory laws enacted in pursuance thereof, and fully set forth in the Petition for the Writ of Mandamus which is a part of the certified copy of record filed with the Petition for Certiorari.

2. CONCLUSIONS—The facts in this case disprove Respondent's conclusions 1 and 2.

3. A decision in this case depends on the interpretation of the constitutional provision for assessment of real estate at its "fair market value," such interpretation being a prerogative of the courts based on all the facts and circumstances of the case involved.

Respectfully submitted,

Bertie E. Tubaugh

~~By~~ Bertie E. Tubaugh
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CERTIFICATE OF SERVICE

I hereby certify that I mailed a true copy of the foregoing Reply Brief to Brief in Opposition to Petition for Certiorari, postage prepaid, this 20th day of February, 1970, to Donald C. Stevens, County Attorney, Counsel for Respondent, 4100 Chain Bridge Road, Fairfax, Virginia, 22030.

Bertie E. Tubaugh